Appendix A (3) Nos. 41—43.

No. 41.

ADMINISTRATION BY CREDITOR ON BEHALF OF HIMSELF AND ALL OTHER CREDITORS.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. *E. F.*, late of , was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of [*here insert nature of debt and security, if any*].

2. *E. F.* died on or about the day of . By his last will, dated the day of , he appointed *C. D.* his executor [*or* devised his estate in trust, etc., *or* died intestate, *as the case may be*].

3. The will was proved by *C. D.* [*or* letters of administration were granted, etc.].

4. The defendant has possessed himself of the movable [and immovable, *or* the proceeds of the immovable] property of *E. F.*, and has not paid the plaintiff his debt.

[*As in paras. 4 and 5 of Form No. 1.*]

7. The plaintiff claims that an account may be taken of the movable [and immovable] property of *E. F.*, deceased, and that the same may be administered under the decree of the Court.

No. 42.

ADMINISTRATION BY SPECIFIC LEGATEE.

(*Title.*)

[*Alter Form No. 41 thus.*]

[*Omit paragraph 1 and commence paragraph 2*] *E. F.*, late of died on or about the day of . By his last will, dated the day of he appointed *C. D.* his executor, and bequeathed to the plaintiff [*here state the specific legacy*].

For paragraph 4 substitute—

The defendant is in possession of the movable property of *E. F.*, and, amongst other things, of the said [*here name the subject of the specific bequest*].

For the commencement of paragraph 7 substitute—

The plaintiff claims that the defendant may be ordered to deliver to him the said [*here name the subject of the specific bequest*] or that, etc.

No. 43.

ADMINISTRATION BY PECUNIARY LEGATEE.

(*Title.*)

[*Alter Form No. 41 thus.*]

[*Omit paragraph 1 and substitute for paragraph 2*] *E. F.*, late of died on or about the day of . By his last will, dated the day of , he appointed *C. D.* his executor, and bequeathed to the plaintiff a legacy of rupees.

In paragraph 4 substitute "legacy" *for* "debt."

Another Form.

(*Title.*)

E. F., the above-named plaintiff, states as follows:—

1. *A. B.* of K. in the died on the day of . By his last will, dated the day of , he appointed the defendant and *M. N.* [who died in the testator's lifetime] his executors, and bequeathed his property, whether movable or immovable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immovable property for the person who would be the testator's heir-at-law, and as to his movable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The will was proved by the defendant on the day of . The plaintiff has not been married.

3. The testator was at his death entitled to movable and immovable property; the defendant entered into the receipt of the rents of the immovable property and got in the movable property; he has sold some part of the immovable property.

[*As in paras. 4 and 5 of Form No. 1.*]

6. The plaintiff claims—

(1) to have the movable and immovable property of *A. B.* administered in this Court, and for that purpose to have all proper directions given and accounts taken;

(2) such further or other relief as the nature of the case may require.

Appendix A (3), Nos. 44—46.

No. 44.

EXECUTION OF TRUSTS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. He is one of the trustees under an instrument of settlement bearing date on or about the day of made upon the marriage of *E. F.* and *G. H.*, the father and mother of the defendant, [*or* an instrument of transfer of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and the other creditors of *E. F.*].

2. *A. B.* has taken upon himself the burden of the said trust, and is in possession of [*or* of the proceeds of] the movable and immovable property transferred by the said instrument.

3. *C. D.* claims to be entitled to a beneficial interest under the instrument.

[*As in paras. 4 and 5 of Form No. 1.*]

6. The plaintiff is desirous to account for all the rents and profits of the said immovable property [and the proceeds of the sale of the said, *or* of part of the said immovable property, *or* movable *or* the proceeds of the sale of, *or* of part of, the said movable property, *or* the profits accruing to the plaintiff as such trustee in the execution of the said trust] : and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust estate may be administered in the Court for the benefit of *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of *C. D.*, and such other persons so interested as the Court may direct, or that *C. D.* may show good cause to the contrary.

[*N. B.—Where the suit is by a beneficiary, the plaint may be modelled*, mutatis mutandis, *on the plaint by a legatee.*]

No. 45.

FORECLOSURE OR SALE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff is mortgagee of lands belonging to the defendant.

2. The following are the particulars of the mortgage:—

(*a*) (date);
(*b*) (names of mortgagor and mortgagee);
(*c*) (sum secured);
(*d*) (rate of interest);
(*e*) (property subject to mortgage);
(*f*) (amount now due);
(*g*) (*if the plaintiff's title is derivative, state shortly the transfers or devolution under which he claims*).

(*If the plaintiff is mortgagee in possession, add*)

3. The plaintiff took possession of the mortgaged property on the day of and is ready to account as mortgagee in possession from that time.

[*As in paras. 4 and 5 of Form No. 1.*]

6. The plaintiff claims—

(1) payment, or in default [sale *or*] foreclosure [and possession];

[*Where Order 34, rule 6, applies.*]

(2) in case the proceeds of the sale are found to be insufficient to pay the amount due to the plaintiff, then that liberty be reserved to the plaintiff to apply for a decree for the balance.

No. 46.

REDEMPTION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff is mortgagor of lands of which the defendant is mortgagee.

2. The following are the particulars of the mortgage:—

(*a*) (date);
(*b*) (names of mortgagor and mortgagee);
(*c*) (sum secured);
(*d*) (rate of interest);
(*e*) (property subject to mortgage);
(*f*) (*if the plaintiff's title is derivative, state shortly the transfers or devolution under which he claims*).

(*If the defendant is mortgagee in possession, add*)

3. The defendant has taken possession [*or* has received the rents] of the mortgaged property.

[*As in paras. 4 and 5 of Form No. 1.*]

6. The plaintiff claims to redeem the said property and to have the same reconveyed to him [and to have possession thereof].

Appendix A (3) Nos. 47—49 and (4).

No. 47.

SPECIFIC PERFORMANCE (No. 1).

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. By an agreement dated the day of and signed by the defendant, he contracted to buy of (*or* sell to) the plaintiff certain immovable property therein described and referred to, for the sum of rupees.

2. The plaintiff has applied to the defendant specifically to perform the agreement on his part, but the defendant has not done so.

3. The plaintiff has been and still is ready and willing specifically to perform the agreement on his part of which the defendant has had notice.

(As in paras. 4 and 5 of Form No. 1.)

6. The plaintiff claims that the Court will order the defendant specifically to perform the agreement and to do all acts necessary to put the plaintiff in full possession of the said property [*or* to accept a transfer and possession of the said property] and to pay the costs of the suit.

No. 48.

SPECIFIC PERFORMANCE (No. 2).

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. On the day of 19 , the plaintiff and defendant entered into an agreement, in writing, and the original document is hereto annexed.

The defendant was absolutely entitled to the immovable property described in the agreement.

2. On the day of 19 the plaintiff tendered rupees to the defendant, and demanded a transfer of the said property by a sufficient instrument.

3. On the day of 19 , the plaintiff again demanded such transfer [*or* the defendant refused to transfer the same to the plaintiff].

4. The defendant has not executed any instrument of transfer.

5. The plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

[*As in paras. 4 and 5 of Form No. 1.*]

8. The plaintiff claims—

(1) that the defendant transfers the said property to the plaintiff by a sufficient instrument [*following the terms of the agreement*];

(2) rupees compensation for withholding the same.

No. 49.

PARTNERSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. He and *C. D.*, the defendant, have been for years (or months) past carrying on business together under articles of partnership in writing, (*or* under a deed, or under a verbal agreement).

2. Several disputes and differences have arisen between the plaintiff and defendant as such partners whereby it has become impossible to carry on the business in partnership with advantage to the partners. [*Or* the defendant has committed the following breaches of the partnership articles :—

(1)
(2)
(3)]

[*As in paras. 4 and 5 of Form No. 1.*]

5. The plaintiff claims—

(1) dissolution of the partnership;
(2) that accounts be taken;
(3) that a receiver be appointed.

(*N. B.—In suits for the winding up of any partnership, omit the claim for dissolution and instead insert a paragraph stating the facts of the partnership having been dissolved.*)

(4) Written Statements.

General defences.

Denial. The defendant denies that (*set out facts*).

The defendant does not admit that (*set out facts*).

The defendant admits that but says that—

Protest. The defendant denies that he is a partner in the defendant firm of

The defendant denies that he made the contract alleged or any contract with the plaintiff.

The defendant denies that he contracted with the plaintiff as alleged or at all.

The defendant admits assets but not the plaintiff's claim.

The defendant denies that the plaintiff sold to him the goods mentioned in the plaint or any of them.

Limitation. The suit is barred by article or article of the first schedule to the Mysore Limitation Regulation.

Jurisdiction. The Court has no jurisdiction to hear the suit on the ground that (*set forth the grounds*).

On the day of a diamond ring was delivered by the defendant to and accepted by the plaintiff in discharge of the alleged cause of action.

The defendant has been adjudged an insolvent.

Insolvency. The plaintiff before the institution of the suit was adjudged an insolvent and the right to sue vested in the receiver.

Minority. The defendant was a minor at the time of making the alleged contract.

Payment into Court. The defendant as to the whole claim (or as to Rs. part of the money claimed, *or as the case may be*) has paid into Court Rs. and says that this sum is enough to satisfy the plaintiff's claim (or the part aforesaid).

Performance remitted. The performance of the promise alleged was remitted on the (*date*).

Rescission. The contract was rescinded by agreement between the plaintiff and defendant.

Res judicata. The plaintiff's claim is barred by the decree in suit (*give the reference*).

Estoppel. The plaintiff is estopped from denying the truth of (*insert statement as to which estoppel is claimed*) because (*here state the facts relied on as creating the estoppel*).

Ground of defence subsequent to institution of suit. Since the institution of the suit, that is to say, on the day of (*set out facts*).

No. 1.

DEFENCE IN SUITS FOR GOODS SOLD AND DELIVERED.

1. The defendant did not order the goods.
2. The goods were not delivered to the defendant.
3. The price was not Rs.

(*or*)

4. } Except as to Rs. , same as { 1. 2. 3.
5. }
6. }

7. The defendant (or A. B., the defendant's agent) satisfied the claim by payment before suit to the plaintiff (*or* to C. D., the plaintiff's agent) on the day of 19

8. The defendant satisfied the claim by payment after suit to the plaintiff on the day of 19

No. 2.

DEFENCE IN SUITS ON BONDS.

1. The bond is not the defendant's bond.
2. The defendant made payment to the plaintiff on the day according to the condition of the bond.
3. The defendant made payment to the plaintiff after the day named and before suit of the principal and interest mentioned in the bond.

No. 3.

DEFENCE IN SUITS ON GUARANTEES.

1. The principal satisfied the claim by payment before suit.
2. The defendant was released by the plaintiff giving time to the principal debtor in pursuance of a binding agreement.

No. 4.

DEFENCE IN ANY SUIT FOR DEBT.

1. As to Rs. 200 of the money claimed, the defendant is entitled to set off for goods sold and delivered by the defendant to the plaintiff.

Particulars are as follows :—

		Rs.
1907, January 25th	...	150
„ February 1st	...	50
Total	...	200

2. As to the whole [*or* as to Rs. , part of the money claimed] the defendant made tender before suit of Rs. , and has paid the same into Court.

No. 5.

DEFENCE IN SUITS FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, and that it was under the charge or control of the defendant's servants. The carriage belonged to of Street, Calcutta, livery stable keepers employed by the defendant to supply him with carriages and horses; and the person under whose charge and control the said carriage was, was the servant of the said—.

2. The defendant does not admit that the said carriage was turned out of Middleton Street, either negligently, suddenly or without warning, or at a rapid or dangerous pace.

3. The defendant says the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.

4. The defendant does not admit the statements contained in the third paragraph of the plaint.

No. 6.

DEFENCE IN ALL SUITS FOR WRONGS.

1. Denial of the several acts [*or* matters] complained of.

No. 7.

DEFENCE IN SUITS FOR DETENTION OF GOODS.

1. The goods were not the property of the plaintiff.
2. The goods were detained for a lien to which the defendant was entitled.

Particulars are as follows :—

1907, May 3rd. To carriage of the goods claimed from Delhi to Calcutta :—
45 maunds at Rs. 2 per maund ... ... Rs.

No. 8.

DEFENCE IN SUITS FOR INFRINGEMENT OF COPYRIGHT.

1. The plaintiff is not the author [*assignee, etc.*].
2. The book was not registered.
3. The defendant did not infringe.

No. 9.

DEFENCE IN SUITS FOR INFRINGEMENT OF TRADE MARK.

1. The trade mark is not the plaintiff's.
2. The alleged trade mark is not a trade mark.
3. The defendant did not infringe.

No. 10.

DEFENCES IN SUITS RELATING TO NUISANCES.

1. The plaintiff's lights are not ancient [*or* deny his other alleged prescriptive rights].

2. The plaintiff's lights will not be materially interfered with by the defendant's buildings.

3. The defendant denies that he or his servants pollute the water [*or* do what is complained of].

[*If the defendant claims the right by prescription or otherwise to do what is complained of, he must say so, and must state the grounds of the claim,* i.e., *whether by prescription, grant or what.*]

4. The plaintiff has been guilty of laches of which the following are particulars :—

1870. Plaintiff's mill began to work.
1871. Plaintiff came into possession.
1883. The first complaint.

5. As to the plaintiff's claim for damages the defendant will rely on the above grounds of defence, and says that the acts complained of have not produced any damage to the plaintiff. [*If other grounds are relied on, they must be stated,* i.e., *limitation as to past damage.*]

Appendix A:(4) Nos. 11—15.

No. 11.

Defence to Suit for Foreclosure.

1. The defendant did not execute the mortgage.
2. The mortgage was not transferred to the plaintiff (*if more than one transfer is alleged, say which is denied*).
3. The suit is barred by article of the first schedule to the Mysore Limitation Regulation.
4. The following payments have been made, *viz*:—

		Rs.
(*Insert date.*)	——————,	... 1,000
(*Insert date.*)	——————,	... 500

5. The plaintiff took possession on the of ; and has received the rents ever since.
6. The plaintiff released the debt on the of .
7. The defendant transferred all his interest to A. B. by a document, dated .

No. 12.

Defence to Suit for Redemption.

1. The plaintiff's right to redeem is barred by article of the first schedule to the Mysore Limitation Regulation.
2. The plaintiff transferred all interest in the property to A. B.
3. The defendant, by a document dated the day of transferred all his interest in the mortgage-debt and property comprised in the mortgage to A. B.
4. The defendant never took possession of the mortgaged property, or received the rents thereof.

(*If the defendant admits possession for a time only, he should state the time, and deny possession beyond what he admits.*)

No. 13.

Defence to Suit for Specific Performance.

1. The defendant did not enter into the agreement.
2. A. B. was not the agent of the defendant (*if alleged by plaintiff*).
3. The plaintiff has not performed the following conditions—(*Conditions*).
4. The defendant did not—(*alleged acts of part performance*).
5. The plaintiff's title to the property agreed to be sold is not such as the defendant is bound to accept by reasons of the following matter—(*state why*).
6. The agreement is uncertain in the following respects—(*state them*).
7. (*or*) The plaintiff has been guilty of delay,
8. (*or*) The plaintiff has been guilty of fraud (*or* misrepresentation),
9. (*or*) The agreement is unfair;
10. (*or*) The agreement was entered into by mistake.
11. The following are particulars of (7), (8), (9), (10) (*or as the case may be*).
12. The agreement was rescinded under Conditions of Sale, No. 11 (*or* by mutual agreement).

(*In cases where damages are claimed and the defendant disputes his liability to damages, he must deny the agreement or the alleged breaches, or show whatever other ground of defence he intends to rely on, e.g., the Limitation Act, accord and satisfaction, release, fraud, etc.*)

No. 14.

Defence in Administration Suit by Pecuniary Legatee.

1. A. B.'s will contained a charge of debts; he died insolvent; he was entitled at his death to some immovable property which the defendant sold and which produced the net sum of Rs. , and the testator had some movable property which the defendant got in, and which produced the net sum of Rs. .
2. The defendant applied the whole of the said sums and the sum of Rs. which the defendant received from rents of the immovable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.
3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the day of 19 , and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.
4. The defendant submits that the plaintiff ought to pay the cost of this suit.

No. 15.

Probate of Will in Solemn Form.

1. The said will and codicil of the deceased were not duly executed according to the provisions of the Indian Succession Act, 1865 as applied to Mysore.
2. The deceased at the time the said will and codicil respectively purport to have been executed, was not of sound mind, memory and understanding.

Appendix A (4) No. 16.

3. The execution of the said will and codicil was obtained by the undue influence of the plaintiff [and others acting with him whose names are at present unknown to the defendant].

4. The execution of the said will and codicil was obtained by the fraud of the plaintiff, such frauds, so far as is within the defendant's present knowledge, being [*state the nature of the fraud*].

5. The deceased at the time of the execution of the said will and codicil did not know and approve of the contents thereof, [*or* of the contents of the residuary clause in the said will, *as the case may be*].

6. The deceased made his true last will, dated the 1st January 1873, and thereby appointed the defendant sole executor thereof.

The defendant claims—

(1) that the Court will pronounce against the said will and codicil propounded by the plaintiff;

(2) that the Court will decree probate of the will of the deceased, dated the 1st January, 1873, in solemn form of law.

No. 16.

PARTICULARS. (O. 6, r. 5.)

(*Title of suit.*)

Particulars. The following are the particulars of (*here state the matters in respect of which particulars have been ordered*) delivered pursuant to the order of the of

(*Here set out the particulars, ordered in paragraphs, if necessary.*)